REMARKS

In the action of June 15, 2010, the examiner rejected claims 1-24 under 35 USC § 112, first paragraph; rejected claims 1-3 and 24 under 35 USC § 103 as unpatentable over Kramer et al., Parker, in view of Lundell, and further in view of Millner; rejected claims 1-3, 5-8, 10, 12, 13, 20 and 24 under 35 USC § 103 as unpatentable over Green, Hilscher et al, Parker and further in view of Lundell and Millner; rejected claims 22 and 23 under 35 USC § 103 as unpatentable over Green, Parker, Wada and further in view of Lundell in view of Millner; and rejected claims 4, 9, 11, 14, 15 16, 18 and 19 under 35 USC § 103 as unpatentable over Green Valiulis, Parker and further in view of Lundell in view of Millner.

Applicant respectfully traverses the examiner's rejection of claims 1-24 under 35 USC § 112. Again, this presents the issue of a fair and reasonable definition of the term "trial use". Trial use of a product is ordinarily defined and understood as being free of charge, i.e. risk free, without payment or obligation of payment. Note that in application, Serial No. 09/588,807, referred to in applicant's disclosure, "trial use" is referred to as "risk free". Further, an internet search of "trial use of a product" reveals information concerning trial use of products, all of which are "free" of charge. All of this demonstrates that the term "trial use" of a product should be understood to mean "without charge" by one of ordinary skill in the art. Hence, the additional language of free and the previous language of lack of payment or obligation of payment is simply part of the ordinary definition of "trial use" The term "trial use", particularly how it is used throughout applicant's disclosure, is consistent with the common definition of use without charge, i.e. free. Accordingly, rejection of claims 1-24 under 35 USC § 112 should be withdrawn.

The use of the term "trial use" and the language setting forth the common understanding of trial use, i.e. "free" and "without payment or obligation of payment" distinguishes the invention over the primary references to Green and Kramer, both of which require payment during the period of initial use. Applicant maintains that such requirement of payment does not meet the reasonable definition of trial use. The examiner has been unable to present any evidence that trial use of a product is anything else than use without charge for a limited amount of time. Accordingly the claims are patentably distinguished over the Kramer and Green primary references.

The examiner cited the reference to Millner with respect to use during a trial period without charge. However, applicant's invention relates specifically to a trial use of a personal care appliance, after which, following a one-time payment, that very product is then enabled for permanent commercial use. This is quite different from the concept of a free download of music during a "trial" time. The reference, however, does reinforce applicant's position that in general the term "trial use" refers to a period of free use, without payment or obligation. The examiner's citation of this reference is additional evidence that the rejection under 35 USC § 112 should be withdrawn. The issue with respect to Millner is simply the logical connection or lack thereof between free downloads of music for a period of time and trial use of a commercial product, such as a power toothbrush, which is permanently enabled following the trial use. There does not appear to be a logical reasonable connection between a download of music services and the trial use of a personal care appliance. Modifying either Kramer or Green using Millner to eliminate payment during their so-called trial periods would go against the fundamental purpose of both references and hence is not a proper obviousness combination. Lundell is not particularly apt as well, since that reference involves a trial use of a product which following the trial use must be discarded. There is no teaching in Lundell of a trial use product being converted to an operable device.

Hence, even though the examiner has now cited a combination of four or five references attempting to reject applicant's claims, that combination still does not teach the precise invention set forth in applicant's claims. Further, none of them address the particular technical problem addressed and solved by applicant's invention, namely overcoming the reluctance of a potential customer to purchase an expensive power toothbrush by first permitting the trial use of an actual commercial product and then converting that product to permanent use upon a one-time payment. This is a novel and effective solution, one which is simply not identified or contemplated by the references themselves.

Accordingly, independent claims 1, 14, 20 and 22 are patentable over the cited references. The remaining claims are dependent on those claims and hence are also allowable.

Allowance of the application is now respectfully requested.

The Commissioner is authorized to charge any deficiency or credit any over payment to Deposit Account 14-1270.

Respectfully submitted,

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